

**AMENDMENT No. 3 TO AGREEMENT
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 1st day of March, 2016, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and HF&H Consultants LLC., a California Limited Liability Company corporation (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the parties entered into an Agreement on December 2, 2014 entitled "Consultant Services Agreement between the City of Milpitas and HF&H Consultants LLC." ("Agreement") for solid waste procurement services in the amount of Fifty-Five Thousand Five Hundred and Twenty-Five Dollars (\$55,525.00) with an expiration date of December 1, 2019; and

WHEREAS, the parties entered into Amendment No. 1 to the Agreement on June 16, 2015, to increase the scope of work and compensation in the additional amount of Forty-Nine Thousand Nine Hundred Twenty-Five Dollars (\$49,925.00); and

WHEREAS, the parties entered into Amendment No. 2 to the Agreement on November 17, 2015 to increase the scope of work and compensation in the additional amount of One Hundred Six Thousand Eight Hundred Dollars (\$106,800.00); and

WHEREAS, the parties desire to increase compensation by Two Hundred Thousand Dollars (\$200,000.00) for a total not to exceed amount of Four Hundred Twelve Thousand Two Hundred Fifty Dollars (\$412,250.00) for additional consultation services.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 2, entitled "Compensation " of the Agreement is amended in its entirety to read as follows:

Section 2. COMPENSATION. City hereby agrees to pay Consultant an amount not to exceed Four Hundred Twelve Thousand Two Hundred Fifty Dollars (\$412,250.00) for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person. Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for

personnel performing services shall be as shown in Exhibit B-3. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2. Exhibit A, entitled "Scope of Work" of the Agreement is amended to add Exhibit A-3 as attached.
3. Exhibit B, entitled "Compensation" of the Agreement is amended to add Exhibit B-3 as attached.
4. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated December 2, 2014, between HF&H Consultants LLC, and the City of Milpitas. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.
5. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date on page 1.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

Thomas C. Williams, City Manager

Marva M. Sheehan, Vice President

Steven J. Machida, Director of Engineering

Rob Hilton, Vice President

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

Exhibit A-3 Scope of Work

This amendment provides additional funding for Tasks 8-11 which are in progress and adds new Tasks 12-19.

Task 12 Present Collection Proposals to Council – We anticipate conducting a public study session with Council, similar to the January 12th meeting on disposal proposals, which will also entail soliciting Council direction regarding base and alternative program choices. HF&H will develop draft and final versions of a Council presentation, and facilitate collection proposer presentations. For the full presentation of the proposals to Council in June 2016, HF&H will develop draft and final versions of the staff report and a Council presentation presenting the results of the Evaluation Team’s collection proposal evaluation including final criteria scoring, final agreements, costs, and the Evaluation Team’s recommendation, and will make the presentation to Council.

Task 13 Disposal Negotiations; Finalize Agreements – Task largely completed. In coordination with City staff, HF&H has negotiated final terms with both disposal proposers and anticipates finalizing agreements this week for company execution. HF&H will, in coordination with the City Attorney, facilitate the process of receiving the final, executed, contract.

Task 14 Transport Analysis - Task partially completed. HF&H advised Planning staff regarding selection of a third party consultant, reviewed the proposed ESA scope, discussed the format for analysis with ESA, has developed and provided data necessary to ESA that have included clarifications with both disposal and collection proposers, and will review draft and final results.

Task 15 Develop Customer Rates - HF&H, in coordination with City staff, will work to develop draft rates for each shortlisted collection proposer, based on Council direction regarding selected programs and each company’s estimated customer count, and fees negotiated during Task 17.

Task 16 Additional Outreach Activities – HF&H will be available to assist City staff, as needed, in developing an outreach plan, and in conducting the plan by facilitating additional public meetings, developing and analyzing results of residential and/or business surveys, etc. Because staff have not yet defined the scope of this effort and our involvement, HF&H has assumed 44 hours for supporting this task and we will work with staff to contain our efforts to that time budget.

Task 17 Collection Negotiations; Finalize Agreements - HF&H will review proposer exceptions for review and discussion with the City Attorney, and in coordination with City staff will meet up to three times each with up to four shortlisted companies to negotiate final terms. HF&H will finalize agreements for execution by up to four companies.

Task 18 Engagement Management –

Task 19 Optional Task – This task requires separate authorization by City and provides contingency funding for unforeseen work.

Exhibit B-3 Compensation

		Vice President	Senior Manager	Senior Associate	Associate	Assistant	Administrative	Total	Proposed
		\$235	\$225	\$170	\$135	\$105	\$100	Hours	Cost
Task 8 Initial Review of Proposals									
	Initial HF&H review for completeness and compliance.	1	2	0	4	0	0	7	\$1,225
	Task 8	1	2	0	4	0	0	7	\$1,225
Task 9 Evaluation of Disposal Proposals									
	HF&H Reviews Disposal Proposals	0	0	0	0	0	0	0	\$0
	HF&H Facilitates Evaluation Team Meeting #1 (Initial Review)	0	0	0	0	0	0	0	\$0
	HF&H Facilitates Evaluation Team Meeting #2 (Proposer Interviews)	0	0	0	0	0	0	0	\$0
	HF&H Facilitates Evaluation Team Meetings #3 and 4 (Complete Scoring, Finalize Recommendation)	4	24	0	12	0	4	44	\$8,360
	Task 9	4	24	0	12	0	4	44	\$8,360
Task 10 Present Disposal Proposals to Council									
	HF&H 1st Council Presentation - January 12th	0	0	0	0	0	0	0	\$0
	HF&H 2nd Council Staff Report and Presentation - Draft	3	16	0	0	0	4	23	\$4,705
	HF&H Finalizes Staff Report and Presentation; Presents to Council	7	10	0	8	0	2	27	\$5,175

	Task 10	10	26	0	8	0	6	50	\$9,880
	Task 11 Evaluation of Collection Proposals								
	HF&H Reviews Collection Proposals	8	48	8	24	0	8	96	\$18,080
	HF&H Facilitates Evaluation Team Meeting #1 (Initial Review)	8	18	6	2	4	2	40	\$7,840
	HF&H Facilitates Evaluation Team Meeting #2 (Proposer Interviews)	10	24	0	8	0	4	46	\$9,230
	HF&H Facilitates Evaluation Team Meeting #3 (Complete Scoring, Develop Recommendation)	5	8	0	0	0	2	15	\$3,175
	Task 11	31	98	14	34	4	16	197	\$38,325
	Task 12 Present Collection Proposals to Council								
	HF&H Facilitates Public Meeting with Collection Proposer Presentations; Council Direction on Selection of Programs	10	24	0	8	0	8	50	\$9,630
	HF&H Prepares Draft Staff Report and Council Presentation	6	24	0	16	0	8	54	\$9,770
	HF&H Finalizes Staff Report and Presentation; Presents at Meetings	6	6	0	0	0	4	16	\$3,160
	Task 12	22	54	0	24	0	20	120	\$22,560
	Task 13 Disposal Negotiations; Finalize Agreements								
	HF&H Negotiates Final Terms with Two Companies	4	12	0	0	0	2	18	\$3,840
	HF&H Finalizes Agreements for Company Execution	6	12	0	8	0	4	30	\$5,590
	Task 13	10	24	0	8	0	6	48	\$9,430
	Task 14 Transport Analysis								

	HF&H Manages ESA Inc. Analysis of Environmental Issues Related to Transport	4	20	0	32	0	2	58	\$9,960
	Task 14	4	20	0	32	0	2	58	\$9,960
Task 15 Develop Customer Rates									
	HF&H Develops Draft Rates in Coordination with Utilities and Finance Staff	16	24	0	32	0	4	76	\$13,880
	HF&H and City Finalize Rates for Inclusion in Each Final Collection Agreement	8	12	0	16	0	2	38	\$6,940
	Task 15	24	36	0	48	0	6	114	\$20,820
Task 16 Additional Outreach Activities									
	HF&H Facilitates and/or Assists City Staff in Conducting Additional Outreach Activities	4	24	0	12	0	4	44	\$8,360
	Task 16	4	24	0	12	0	4	44	\$8,360
Task 17 Collection Negotiations; Finalize Agreements									
	HF&H Negotiates Final Terms with Up to Four Companies	24	48	0	0	0	4	76	\$16,840
	HF&H Finalizes Agreements for Execution by Up to 4 Companies	12	24	32	16	0	20	104	\$17,820
	Task 17	36	72	32	16	0	24	180	\$34,660
Task 18 Engagement Management									
		4	16	0	0	0	0	20	\$4,540
Task 19 Optional Task As Needed									
									\$31,380
Total Costs									
	Labor	150	396	46	198	4	88	882	\$199,500
	Out-of-Pocket Expenses								\$500
	Total Budget								\$200,000

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
<input checked="" type="checkbox"/> Budget Appropriation	280-2909	200,000	331-9513401-2-4800	200,000
<input type="checkbox"/> Budget Transfer	331-9513401-15-3836	200,000	280-3952	200,000

Approve Amendment No. 3 to the Consultant Agreement with HF&H Consultants for Solid Waste Procurement Services in the Amount of \$200,000 and Approve a Budget Appropriation in the Amount of \$200,000 for CIP No. 3401 (Staff Contact: Steven Machida, 408-586-3355)

Background: The City's 30-year solid waste collection and disposal agreements with Republic Services expire in September 2017. On December 2, 2014, the City entered into an agreement with HF&H Consultants (HF&H) for \$55,525 to identify and analyze the City's options for obtaining future services. On April 7, 2015, Council chose to conduct a competitive process. On May 5, 2015 and June 16, 2015 staff received Council direction regarding the policies governing and the content of the solid waste services Request for Proposal (RFP). Proposals were received on October 27, 2015 as provided in the schedule.

On June 16, 2015, Council approved Amendment 1 in the amount of \$49,925 to include the next phase of work, which involved developing a list of proposers, completing development of, and issuing the RFP including two draft agreements, posting the RFP to a dedicated website, responding to proposer questions, and receiving and conducting an initial review of the proposals. On November 17, 2015, Council approved Amendment No. 2 to the Agreement with HF&H in the amount of \$106,800 to allow continuation of work related to initial proposal review for both collection and disposal proposals and to conduct of most of the work necessary for the evaluation, negotiation, and public presentation of information related to the selection of a Disposal Services Contractor. In each case, staff recommended use of a phased approach for the consultant work due to unknowns that have included the number of, and content of proposals that were to be submitted, the extent of alternatives/exceptions proposed, needs for added public outreach, and Council direction in negotiating agreements with one or more finalists for disposal and for collection.

It is necessary to amend the consultant agreement to address the additional effort now anticipated will be necessary to complete the procurement process as described in Consultant's letter and fee estimate of February 16, 2016. In addition, staff recommends including a contingency that would be authorized by staff, if needed.

The total not-to-exceed amount of this agreement is increased to \$412,250. A budget appropriation in the amount of \$200,000 is necessary. Staff continues to recommend a phased approach for the consultant work due to the unknowns as work proceeds.

California Environmental Quality Act (CEQA): The item is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change to the environment.

Alternative: If the amendment is not approved, engineering staff will not receive procurement consulting services to complete the RFP process and the City will not have the resources available to make an informed decision, when selecting a hauler, which will best meet the needs of the City.

Fiscal Impact: A budget appropriation of \$200,000 from the Solid Waste Fund to CIP No. 3401 is necessary to perform this work.

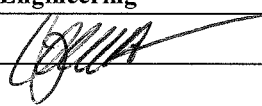
Recommendation:

1. Approve Amendment No. 3 to the Consultant Agreement with HF&H Consultants for solid waste procurement services in the amount of \$200,000, and
2. Approve a budget appropriation in the amount of \$200,000 from the Solid Waste Fund to CIP No. 3401.

☒ Check if City Council Approval required.

Meeting: March 1, 2016

Itemization of funds, if needed:	Amount

Requested by:	Steven Machida, Director of Engineering	Date:
Department Head:	Steven Machida, Director of Engineering	Date:
Reviewed by:	Finance Director: 	Date: 2/22/2016
Approved by:	City Manager:	Date:
Date approved by City Council, if required: Confirmed by:		

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Form 30-222 (Rev. 1/92)